



States' Biofuels Statutes

STATE OF MONTANA

This project was undertaken in partnership with the USDA Office of the Chief Economist, The Office of Energy Policy and New Uses. For information on the full project, visit [States' Biofuels Statutory Citations](#).

Current through the 2013 Legislative Session of the Montana General Assembly.

15-32-702. Biodiesel or biolubricant production facility tax credit

(1) An individual, corporation, partnership, or small business corporation, as defined in 15-30-3301, may receive a credit against taxes imposed by Title 15, chapter 30 or 31, for the costs of investments in depreciable property for constructing or equipping a facility, or both, in Montana to be used for biodiesel or biolubricant production.

(2) Subject to subsection (4), a taxpayer qualifying for a credit under this section is entitled to claim a credit, as provided in subsection (3), for the costs described in subsection (1) incurred in the 2 tax years before the facility begins producing biodiesel or biolubricant or in any tax year in which the facility is producing biodiesel or biolubricant.

(3) The total amount of the credits for all years that may be claimed for a facility under this section is 15% of the costs described in subsection (1).

(4) The following requirements must also be met for a taxpayer to be entitled to a tax credit under this section:

(a) The depreciable property for which the credit is claimed must begin operating before January 1, 2015.

(b)(i) The taxpayer claiming a credit must be a person who as an owner, including a contract purchaser or lessee, or who pursuant to an agreement owns, leases, or has a beneficial interest in a business that manufactures biodiesel or biolubricant.

(ii) If more than one person has an interest in a business with qualifying property, they may allocate all or any part of the investment cost among themselves and their successors or assigns.

(c) The business must be owned or leased during the tax year by the taxpayer claiming the credit, except as otherwise provided in subsection (4)(b), and, except for the 2 tax-year period claimed in subsection (2), must have been producing biodiesel or biolubricant during the tax year for which the credit is claimed and during each year in which the credit is carried forward.

(5) The credit provided by this section is not in lieu of any depreciation or amortization deduction for the investment or other tax incentive to which the taxpayer otherwise may be entitled under Title 15.

(6) A tax credit allowable under this section that is not completely used by the taxpayer in the tax year in which the credit was initially taken may be carried forward for credit against a taxpayer's tax liability for any succeeding tax year until the total amount of the credit has been deducted from tax liability. However, a credit may not be carried forward to any tax year in which the facility in which the depreciable property is installed is not producing biodiesel or biolubricant or beyond the 7th tax year after the tax year for which the credit was initially claimed. If a facility for which a credit is claimed ceases production of biodiesel or biolubricant for a period of 12 continuous months within 5 years after the initial claiming of a credit under this section or within 5 years after a year in which the credit was carried forward, the credit is subject to recapture. The person claiming the credit is liable for the total amount of the credit in the event of recapture.

(7) The taxpayer's adjusted basis for determining gain or loss may not be further decreased by any tax credits allowed under this section.

(8) If the taxpayer is a shareholder of an electing small business corporation, the credit must be computed using the shareholder's pro rata share of the corporation's cost of investing in the biodiesel or biolubricant production facility. In all other respects, the allowance and effect of the tax credit apply to the corporation as otherwise provided by law.

(9) As used in this section, the following definitions apply:

(a) "Biodiesel" has the meaning provided in 15-70-301.

(b) "Biolubricant" has the meaning provided in 15-32-701(9).

Credits: Enacted by Laws 2005, ch. 524, § 2. Amended by Laws 2007, ch. 168, § 2.